



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 13, 2010

Mr. Vic Ramirez  
Associate General Counsel  
Lower Colorado River Authority  
P.O. Box 220  
Austin, Texas 78767-0220

OR2010-10368

Dear Mr. Ramirez:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 386436.

The Lower Colorado River Authority (the "authority") received a request for the Bastrop and Fayette Spring Outage 2010 refractory bids. Although the authority takes no position with respect to the public availability of the submitted information, you state its release may implicate the proprietary interests of Hi-Tech Industrial Services, Inc. ("Hi-Tech"). Accordingly, you state, and provide documentation showing, the authority notified Hi-Tech of the authority's receipt of the request for information and of Hi-Tech's right to submit arguments to this office as to why its information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered comments submitted by Hi-Tech and reviewed the submitted information.

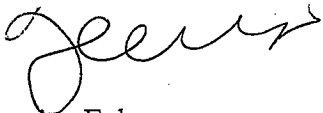
Hi-Tech asserts its pricing documents are excepted from disclosure under section 552.104 of the Government Code, which excepts "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. Section 552.104, however, is a discretionary exception that protects only the interests of a governmental body, as distinguished from exceptions that are intended to protect the interests of third parties. *See* Open Records Decision Nos. 592 (1991) (statutory predecessor to section 552.104 designed

to protect interests of governmental body in competitive situation, and not interests of private parties submitting information to government), 522 (1989) (discretionary exceptions in general). As the authority does not seek to withhold any information pursuant to this exception, we find section 552.104 is not applicable to Hi-Tech's information. *See* ORD 592 (governmental body may waive section 552.104). Accordingly, no portion of Hi-Tech's information may be withheld under section 552.104. As Hi-Tech raises no further exceptions to disclosure, Hi-Tech's information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/eeg

Ref: ID# 386436

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Richard Hergott  
Hi-Tech Industrial services, Inc.  
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(w/o enclosures)